

REGULAR MEETING
BOROUGH COUNCIL
BOROUGH OF RUMSON
January 14, 2020

A regular meeting of the Borough Council of the Borough of Rumson was held in the Forrestdale School Cafeteria, 60 Forrest Avenue, on Tuesday, January 14, 2020 at 7:00 p.m.

Pledge of Allegiance.

Present: Mayor Hemphill, Council President Atwell, Councilmen Casazza, Conklin, Kingsbery, Rubin and Swikart.

Absent: None.

Thomas S. Rogers, Municipal Clerk/Administrator, was present.

Martin M. Barger, Borough Attorney, was present.

David Marks, Borough Engineer, was present.

Kendra Lelie, Borough Planner, was present.

Mayor Hemphill declared a quorum present and announced that the notice requirements of the Open Public Meetings Act had been met by the posting and mailing of a notice at least 48 hours in advance thereof to the *Asbury Park Press* and the *Two River Times*.

On motion by Councilman Rubin, seconded by Councilman Casazza, the minutes of the previous meeting were approved as written, copies having been forwarded to all Council members. All in favor.

COMMUNICATIONS:

LETTER RECEIVED FROM ROBERT E. SCHWARZKOPF, CHMM, LSRP OF NAJARIAN ASSOCIATES, INC. SERVING AS PUBLIC NOTIFICATION AND OUTREACH REGARDING DEANE PORTER POND, BLOCK 44, LOT 15 (50 BLACK POINT ROAD).

The Municipal Clerk/Administrator received a letter of notification from Robert E. Schwarzkopf, CHMM, LSRP, Senior Environmental Scientist for Najarian Associates advising of Public Notification & Outreach for the Deane Porter Pond project. Photographs accompany the letter. Deane Porter Pond is located at Block 44, Lot 15 in the Borough.

On motion by Councilman Rubin, seconded by Council President Atwell, this communication was ordered received. All in favor.

LETTER RECEIVED FROM PETER ENGLISH OF THE ENGLISH GROUP, LLC SERVING AS NOTIFICATION OF THE SUBMISSION OF A COASTAL PERMIT APPLICATION FOR BLOCK 1, LOTS 5 & 6 (98-100 WEST RIVER ROAD).

The Municipal Clerk/Administrator received a letter from Peter English, Managing Partner for the English Group, LLC advising of an NJDEP Coastal Permit Application for Block 1, Lots 5 & 6 (98-100 West River Road). Along with the letter and Application, copies of an updated site plan were enclosed.

On motion by Councilman Rubin, seconded by Council President Atwell, this communication was ordered received. All in favor.

LETTER RECEIVED FROM JAMES MCMANUS, PRESIDENT OF RUMSON ST. PATRICK'S DAY PARADE, INC. MR. MCMANUS IS REQUESTING PERMISSION TO

HOLD THE EIGHTH ANNUAL RUMSON ST. PATRICK’S DAY PARADE ON SUNDAY, MARCH 8, 2020 BEGINNING AT 1:00 P.M. AND ENDING AT 3:00 P.M.

The Municipal Clerk/Administrator received a letter from James McManus, President of Rumson St. Patrick’s Day Parade, Inc. requesting permission to hold the Eighth Annual Rumson St. Patrick’s Day Parade on Sunday, March 8th beginning at 1:00 p.m. and ending at 3:00 p.m. Proposed parade route would be River Road starting at Allen Street and concluding at Carton Street.

On motion by Councilman Rubin, seconded by Council President Atwell, this request was approved and the communication was ordered received. All in favor.

LETTER RECEIVED FROM JOE LAGROTTERIA OF 6 FORREST AVENUE COMMENDING THE RUMSON DEPARTMENT OF PUBLIC WORKS.

The Municipal Clerk/Administrator received a letter from resident Joe Lagrotteria of 6 Forrest Avenue commending the Department of Public Works, including Superintendent Mark Wellner, Foreman Timothy Leonard and all crews on their exemplary service to the community.

On motion by Councilman Rubin, seconded by Council President Atwell, this communication was ordered received. All in favor.

COMMITTEE REPORTS:

None.

UNFINISHED BUSINESS:

None.

NEW BUSINESS:

MOTION AUTHORIZING THE SOLICITATION OF BIDS FOR SIDEWALK & CURB PROJECT FOR EAST RIVER ROAD (BLACK POINT ROAD TO BINGHAM AVENUE).

Councilman Conklin motioned that the Municipal Clerk/Administrator be authorized to solicit bids for a sidewalk & curb project for East River Road (Black Point Road to Bingham Avenue).

Motion seconded by Councilman Rubin and carried on the following roll call vote:

In the affirmative: Atwell, Casazza, Conklin, Kingsbery, Rubin and Swikart.

In the negative: None.

Absent: None.

RESOLUTION 2020-0114-26 FIXING SALARIES OF CERTAIN BOROUGH OFFICERS, EMPLOYEES AND APPOINTEES.

2020-0114-26

Councilman Rubin offered the following resolution and moved its adoption:

**RESOLUTION FIXING SALARIES OF CERTAIN
BOROUGH OFFICERS, EMPLOYEES AND APPOINTEES**

WHEREAS, an ordinance entitled “AN ORDINANCE FIXING COMPENSATION OF BOROUGH OFFICERS AND CERTAIN BOROUGH EMPLOYEES IN THE BOROUGH OF RUMSON, NEW JERSEY” has been adopted following public hearing; and

WHEREAS, said ordinance provides for salary ranges of various job titles and positions;
and

WHEREAS, it is the intention of the Mayor and Council to fix the salaries of those
individuals who hold such positions; and

WHEREAS, the Borough of Rumson has decided to utilize part-time Special Police
Officers to provide door monitoring and security for Recreation events at our local schools;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of
Rumson that part-time Special Police Officers are to be paid \$20.00 per hour for the aforesaid
services.

BE IT FURTHER RESOLVED that the above rates shall be retroactive to January 1,
2020.

Resolution seconded by Councilman Casazza and carried upon the following roll call
vote:

In the affirmative: Atwell, Casazza, Conklin, Kingsbery, Rubin and Swikart.

In the negative: None.

Absent: None.

**MOTION TO CHANGE THE REGULAR ORDER OF BUSINESS TO HOLD
REMAINING RESOLUTIONS UNTIL AFTER A PRESENTATION:**

Councilman Conklin made a motion to change the Regular Order of Business to hold the
remaining Resolutions until after a presentation on affordable housing. Motion seconded by
Councilman Rubin. All in favor.

ANNOUNCEMENTS BY THE MAYOR:

Borough Hall will be closed on Monday, January 20th in observance of Dr. Martin
Luther King, Jr.’s Birthday. However, there **will** be garbage collection on Monday, January
20th.

Have an enjoyable and safe holiday weekend.

CONSIDERATION OF BILLS AND CLAIMS (RESOLUTION):

Councilman Rubin offered the following Resolution and moved its adoption:

Vendor	Amount
MONMOUTH COUNTY SPCA	\$ 250.00
ANIMAL CONTROL FUND	\$ 250.00
FRONTIER TREE COMPANY, INC	\$ 3,800.00
CAPITAL FUND	\$ 3,800.00
KYLE MCMANUS ASSOCIATES LLC	\$ 2,236.50
COAH TRUST FUND	\$ 2,236.50
MONMOUTH MUNICIPAL J.I.F.	\$ 137,743.00
ABSOLUTE FIRE PROTECTION CO.	\$ 2,790.14
AIR GROUP LLC	\$ 232.00
AMERICANWEAR INDUST UNIFORMS	\$ 940.66
ATLANTIC TACTICAL OF NJ, INC	\$ 582.48

BAIN'S HARDWARE INC.	\$	4.49
BARGER & GAINES	\$	20,660.00
BARGER & GAINES	\$	2,000.00
BOROUGH OF FAIR HAVEN	\$	5,000.00
BOXWOOD GARDENS	\$	375.00
BUTCH'S AUTO. CAR WASH, INC.	\$	51.00
CENTRAL TOWING	\$	105.00
CIRCLE CHEVROLET INC	\$	263.15
CITY OF LONG BRANCH	\$	1,000.00
CROSS OVER NETWORKS	\$	1,564.00
CROSS OVER NETWORKS	\$	69.90
DELTA DENTAL OF NEW JERSEY INC	\$	8,050.64
DEPOSITORY TRUST COMPANY	\$	96,744.38
DIRECT ENERGY BUSINESS	\$	928.21
DYNAMIC TESTING SERVICE	\$	170.00
EDMUNDS AND ASSOCIATES, INC	\$	8,075.00
EVERBRIDGE,INC	\$	3,500.00
FAIR HAVEN HARDWARE INC	\$	16.17
FAIR HAVEN HARDWARE INC	\$	18.87
FAIR HAVEN HARDWARE INC	\$	16.86
FAIR HAVEN HARDWARE INC	\$	22.59
JOSEPH FAZZIO WALL, LLC	\$	28.70
FRONTIER TREE COMPANY, INC	\$	3,100.00
FRONTIER TREE COMPANY, INC	\$	4,600.00
FRONTIER TREE COMPANY, INC	\$	600.00
FRONTIER TREE COMPANY, INC	\$	1,100.00
FRONTIER TREE COMPANY, INC	\$	1,200.00
GLENCO SUPPLY INC.	\$	432.00
GLENCO SUPPLY INC.	\$	150.00
WW GRAINGER INC	\$	302.87
WW GRAINGER INC	\$	23.84
HOFFMAN SERVICES INC	\$	400.00
JASPAN HARDWARE	\$	61.17
JOHN GUIRE SUPPLY	\$	16.99
KYLE MCMANUS ASSOCIATES LLC	\$	958.50
LANIGAN ASSOCIATES, INC	\$	1,310.45
LANGUAGE LINE SERVICES,INC	\$	8.53
LERTCH RECYCLING CO INC	\$	370.32
LERTCH RECYCLING CO INC	\$	144.00
LERTCH RECYCLING CO INC	\$	249.90
LERTCH RECYCLING CO INC	\$	88.80
LERTCH RECYCLING CO INC	\$	168.48
LERTCH RECYCLING CO INC	\$	146.88
LERTCH RECYCLING CO INC	\$	41.58
LERTCH RECYCLING CO INC	\$	711.92
LERTCH RECYCLING CO INC	\$	126.00
LERTCH RECYCLING CO INC	\$	509.28
LERTCH RECYCLING CO INC	\$	352.99
LERTCH RECYCLING CO INC	\$	229.68
LERTCH RECYCLING CO INC	\$	217.30
LERTCH RECYCLING CO INC	\$	286.37
LERTCH RECYCLING CO INC	\$	128.30
LERTCH RECYCLING CO INC	\$	336.00
LERTCH RECYCLING CO INC	\$	80.95

LERTCH RECYCLING CO INC	\$	574.35
LERTCH RECYCLING CO INC	\$	387.06
LERTCH RECYCLING CO INC	\$	86.16
LERTCH RECYCLING CO INC	\$	106.32
LERTCH RECYCLING CO INC	\$	164.20
LERTCH RECYCLING CO INC	\$	327.12
LERTCH RECYCLING CO INC	\$	156.95
LERTCH RECYCLING CO INC	\$	81.35
LERTCH RECYCLING CO INC	\$	44.05
LERTCH RECYCLING CO INC	\$	337.44
LERTCH RECYCLING CO INC	\$	91.00
LERTCH RECYCLING CO INC	\$	349.20
LERTCH RECYCLING CO INC	\$	386.16
LERTCH RECYCLING CO INC	\$	199.36
LERTCH RECYCLING CO INC	\$	85.75
LERTCH RECYCLING CO INC	\$	405.24
LIFE SAVERS INC.	\$	333.12
MGL PRINTING SOLUTIONS	\$	646.00
MID-ATLANTIC TRUCK CENTRE INC	\$	309.09
MID-ATLANTIC TRUCK CENTRE INC	\$	2,190.55
MID-ATLANTIC TRUCK CENTRE INC	\$	5,335.82
TREASURER, COUNTY OF MONMOUTH	\$	22.03
NAYLOR'S AUTO PARTS	\$	80.86
NEW JERSEY AMERICAN WATER	\$	9,568.00
NEXVORTEX, INC	\$	425.71
NFPA	\$	188.45
NJ NATURAL GAS CO.	\$	1,543.99
NJ LEAGUE OF MUNICIPALITIES	\$	50.00
STATE OF NJ PENSIONS/ACTIVE	\$	80,919.97
STATE OF NJ PENSIONS/RETIREE	\$	30,574.00
ONE CALL CONCEPTS	\$	146.74
OVERBROOK FARM	\$	17,744.40
PDEC DESIGN & PRINT INC	\$	1,073.00
PEP EXPRESS PARTS	\$	89.95
PERRY'S TROPHY CO., INC.	\$	113.98
POSTMASTER, RED BANK	\$	235.00
POWERDMS	\$	3,312.00
REPUBLIC SERVICES of NJ, LLC	\$	481.55
RUMSON ELEMENTARY SCHOOL DIST	\$	2,004,061.50
RFH REGIONAL HIGH SCHOOL	\$	2,030,720.65
RYSER'S LANDSCAPE SUPPLY	\$	32.00
SEABOARD WELDING SUPPLY, INC	\$	52.00
STAPLES,INC	\$	199.99
STAVOLA ASPHALT CO. INC.	\$	140.78
MICHAEL B STEIB, PA	\$	39.00
SUBURBAN DISPOSAL INC.,	\$	13,375.00
SUBURBAN DISPOSAL INC.,	\$	25,169.82
SUBURBAN DISPOSAL INC.,	\$	13,375.00
TARGETED TECHNOLOGIES LLC	\$	75.00
TARGETED TECHNOLOGIES LLC	\$	2,574.76
TARGETED TECHNOLOGIES LLC	\$	414.00
TREASURER, STATE OF NJ	\$	3,846.00
TREASURER, STATE OF NJ	\$	150.00
TRIUS INC.	\$	388.41

TRITECH SOFTWARE SYSTEMS	\$	12,033.75
TWO RIVERS WATER	\$	20,880.00
VINELAND AUTO ELECTRIC INC	\$	630.57
GEORGE WALL LINCOLN	\$	203.24
WEATHERWORKS LLC	\$	1,650.00
<i>CURRENT FUND</i>	\$	<i>4,598,582.73</i>
PLAYPOWER LT FARMINGTON, INC	\$	1,112.08
<i>RUMSON ENDOWMENT FUND INC</i>	\$	<i>1,112.08</i>
LEAGUE APPS	\$	47.47
NATIONAL CENTER FOR SAFETY	\$	451.00
MICHAEL RUSSOMANNO	\$	120.00
<i>RECREATION TRUST</i>	\$	<i>618.47</i>
MICHAEL B STEIB, PA	\$	312.00
<i>TRUST</i>	\$	<i>312.00</i>
<i>Animal Control Fund</i>	\$	<i>250.00</i>
<i>Capital Fund</i>	\$	<i>3,800.00</i>
<i>COAH Trust Fund</i>	\$	<i>2,236.50</i>
<i>Current Fund</i>	\$	<i>4,598,582.73</i>
<i>Rumson Endowment Fund, Inc.</i>	\$	<i>1,112.08</i>
<i>Recreation Trust</i>	\$	<i>618.47</i>
<i>Trust</i>	\$	<i>312.00</i>
<i>Total of All Funds</i>	\$	<i>4,606,911.78</i>

Resolution seconded by Councilman Casazza and carried on the following roll call vote:

In the affirmative: Atwell, Casazza, Conklin, Kingsbery, Rubin and Swikart.

In the negative: None.

Absent: None.

MOTION TO TAKE A BRIEF RECESS AND RELOCATE THE MEETING FROM THE FORRESTDALE SCHOOL CAFETERIA TO THE GYMNASIUM AT 7:10 P.M.

Councilman Rubin made a motion for brief recess to relocate the meeting from the Forrestdale School cafeteria to the gymnasium. Motion seconded by Councilman Casazza. All in favor.

MOTION TO CONTINUE THE MEETING AT 7:40 P.M.

Councilman Rubin made a motion to continue the meeting at this time. Motion seconded by Councilman Casazza. All in favor.

KENDRA LELIE OF KYLE MCMANUS TO PRESENT THE BOROUGH’S AFFORDABLE HOUSING PROGRAM AND SETTLEMENT AGREEMENTS.

At this time, the Borough’s Planner, Kendra Lelie of Kyle McManus presented the Borough’s Affordable Housing Program and details of the settlement agreements. The presentation took approximately forty-five (45) minutes to complete and can be found on the Borough of Rumson website.

COMMENTS FROM THE PUBLIC & THE COUNCIL.

The Mayor opened the meeting to comments from the public. The Mayor and Council, Borough Planner Kendra Lelie and Borough Administrator/Municipal Clerk Thomas S. Rogers answered questions for approximately two and a half (2.5) hours. A recorded copy of the question and answer portion of the meeting can be found on file in the Municipal Clerk's office.

MOTION TO COMPLETE THE REMAINING NEW BUSINESS ITEMS.

Councilman Rubin made a motion to continue the meeting at this time. Motion seconded by Council President Atwell. All in favor.

RESOLUTION 2020-0114-27 AUTHORIZING THE EXECUTION OF A SETTLEMENT AGREEMENT WITH FAIR SHARE HOUSING CENTER.

2020-0114-27

Councilman Conklin offered the following resolution and moved its adoption:

**RESOLUTION OF THE BOROUGH COUNCIL OF THE BOROUGH OF
RUMSON AUTHORIZING THE EXECUTION OF A SETTLEMENT
AGREEMENT WITH FAIR SHARE HOUSING CENTER**

WHEREAS, pursuant to In re N.J.A.C. 5:96 and 5:97, 221 N.J. 1 (2015)(Mount Laurel IV), on July 2, 2015, the Borough of Rumson (hereinafter "Rumson" or "Rumson Borough") filed a Declaratory Judgment Complaint in Superior Court, Law Division seeking, among other things, a judicial declaration that its Housing Element and Fair Share Plan (hereinafter "Fair Share Plan"), to be amended as necessary, satisfies its "fair share" of the regional need for low- and moderate-income housing pursuant to the "Mount Laurel doctrine"; and

WHEREAS, the Borough simultaneously sought, and ultimately secured, a protective order providing Rumson Borough immunity from all exclusionary zoning Mount Laurel lawsuits, including builder's remedy lawsuits, while it pursues approval of its Fair Share Plan, which is still in full force and effect; and

WHEREAS, the trial judge appointed Francis J. Banisch III, P.P., A.I.C.P. as the Special Court Master (hereinafter the "Court Master"), as is customary in Mount Laurel matters adjudicated in the courts; and

WHEREAS, with assistance from the Court Master, Rumson Borough and Fair Share Housing Center (hereinafter "FSHC") engaged in good faith negotiations, which resulted in an amicable accord and settlement on various substantive terms and conditions as set forth in a Settlement Agreement; and

WHEREAS, through this process, the Borough and FSHC agreed upon the Borough's affordable housing obligations and the compliance techniques necessary for Rumson Borough to satisfy its "fair share" of the regional need for low- and moderate-income housing; and

WHEREAS, the Borough and FSHC also agreed to present the Settlement Agreement to the Court for approval at a duly-noticed Mount Laurel Fairness Hearing; and

WHEREAS, although there is a well-established policy favoring the settlement of all forms of litigation, the settlement of Mount Laurel litigation is particularly favored because (1) it avoids the expenditure of finite public resources; (2) continues the Borough's immunity from Mount Laurel lawsuits; (3) maintains municipal control over land use decisions; and (4) provides for the construction of safe, decent housing for the region's low- and moderate-income households; and

WHEREAS, in light of the above, the Borough Council finds that it is in the best interest of Rumson Borough to execute the Settlement Agreement with FSHC and to take various other actions delineated below, which will ultimately result in approval of the Borough's Fair Share

Plan which, in turn, will maintain the Borough’s immunity from all Mount Laurel lawsuits through July 2, 2025.

NOW, THEREFORE, BE IT RESOLVED on this 14th day of January, 2020, by the Council of the Borough of Rumson, County of Monmouth, State of New Jersey, as follows:

1. The Borough Council hereby authorizes and directs the Mayor of Rumson Borough to execute a Settlement Agreement with Fair Share Housing Center in a form and content acceptable to counsel for the Borough of Rumson.

2. The Borough hereby directs its Affordable Housing Counsel to (a) file the fully-executed Settlement Agreement with the Court for review and approval at a duly-noticed Fairness Hearing, (b) take all actions reasonable and necessary to secure an Order approving the Settlement Agreement, and (c) work towards ultimately securing judicial approval of the Borough’s Fair Share Plan, after it is drafted, adopted by the Borough’s Planning Board and endorsed by the Borough Council.

Resolution seconded by Council President Atwell and carried upon the following roll call vote:

In the affirmative: Atwell, Casazza, Conklin, Kingsbery, Rubin and Swikart.

In the negative: None.

Absent: None.

RESOLUTION 2020-0114-28 AUTHORIZING THE EXECUTION OF A SETTLEMENT AGREEMENT WITH YELLOW BROOK PROPERTY CO., LLC.

2020-0114-28

Councilman Conklin offered the following resolution and moved its adoption:

**RESOLUTION OF THE BOROUGH COUNCIL OF THE
BOROUGH OF RUMSON AUTHORIZING THE
EXECUTION OF A SETTLEMENT AGREEMENT WITH
YELLOW BROOK PROPERTY CO., LLC.**

WHEREAS, in response to the New Jersey Supreme Court’s decision In re Adoption of N.J.A.C. 5:96 and 5:97 by N.J. Council on Affordable Housing, 221 N.J. 1 (2015), on July 2, 2015 (“Mount Laurel IV”), the Borough filed an action with the Superior Court of New Jersey (“Court”), entitled In the Matter of the Application of the Borough of Rumson, County of Monmouth, Docket No. MON-L-2483-15 (the “Compliance Action”), seeking a Judgment of Compliance and Repose approving its Housing Element and Fair Share Plan (hereinafter “Affordable Housing Plan”), in addition to related relief, and simultaneously filed a motion for temporary immunity, which was subsequently granted by the Court and is still in full force and effect; and

WHEREAS, Yellow Brook Property Co., LLC (hereinafter the “Developer”), an intervenor in the Borough’s Compliance Action, is the property owner of two sites located in Borough at 132 Bingham Avenue (Block 94, Lot 5)(hereinafter the “Bingham Avenue Development”) and 91 Rumson Road (Block 124. Lot 31)(hereinafter the “Rumson Road Development”); and

WHEREAS, the Borough and the Developer entered into settlement negotiations, and the parties have agreed upon the construction of (1) the Bingham Avenue Development, which will consist of up to 18 market rate residential for-sale luxury housing units, and (2) the Rumson Road Development, which will consist of up to 16 market rate residential for-sale luxury housing units; and

WHEREAS, neither the Bingham Avenue Development, nor the Rumson Road Development, will contain any affordable housing units as the Developer has agreed to contribute a *payment in lieu* of constructing on-site affordable units to the Borough, so that said units can be constructed at 62 Carton Street (Block 59, Lot 10)(the “Carton Street Development”), which is being dedicated by the Developer to the Borough; and

WHEREAS, the Borough and the Developer have negotiated and agreed upon a Settlement Agreement to implement the Bingham Avenue Development, the Rumson Road Development and the Carton Street Development; and

WHEREAS, the Settlement Agreement and its exhibits, have been reviewed and approved by the Borough’s professionals, along with the attorney and principals of the Developer; and

WHEREAS, the Borough Council finds it to be in the best interest of the Borough to enter into the Settlement Agreement;

NOW, THEREFORE, BE IT RESOLVED that the Mayor and Borough Council of the Borough of Rumson, County of Monmouth, State of New Jersey, as follows:

1. The Mayor and Borough Clerk are hereby authorized and directed to execute the Settlement Agreement with the Developer in a form and content acceptable to counsel for the Borough of Rumson.
2. The appropriate Borough officials and professionals are hereby authorized to take all actions necessary to carry out and complete the terms of the Settlement Agreement.

Resolution seconded by Council President Atwell and carried upon the following roll call vote:

In the affirmative: Atwell, Casazza, Conklin, Kingsbery, Rubin and Swikart.

In the negative: None.

Absent: None.

ADJOURNMENT:

On motion by Councilman Rubin, seconded by Councilman Casazza, the meeting adjourned at 11:15 p.m. All in favor.

Respectfully submitted,

Thomas S. Rogers, R.M.C.
Municipal Clerk/Administrator